

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Anthony J. Cilwa,)	
)	Case No. 8:16-mc-00074-TMC-JDA
Appellant,)	
)	
vs.)	REPORT AND RECOMMENDATION
)	OF MAGISTRATE JUDGE
John K. Fort,)	
)	
Appellee.)	
)	

This matter is before the Court on a motion for leave to appeal the order of the United States Bankruptcy Court for the District of South Carolina (“the Bankruptcy Court”) dated March 2, 2016. [Doc. 1.] Pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(A) and Local Civil Rule 73.02(B)(2)(e), D.S.C., all pretrial proceedings involving litigation by individuals proceeding pro se are referred to a United States Magistrate Judge for consideration.

Appellant filed a Notice of Appeal in the Bankruptcy Court on March 7, 2016, which this Court has construed as a motion for leave to appeal an interlocutory order. See Fed. R. Bankr. P. 8004(d) (“If an appellant timely files a notice of appeal under this rule but does not include a motion for leave, the district court . . . may order the appellant to file a motion for leave, or treat the notice of appeal as a motion for leave and either grant or deny it.”). On March 16, 2016, Appellee filed a response in opposition to the motion for leave to appeal. [Doc. 2.] Finding Appellee’s arguments in the response to be compelling, on March 30, 2016, the undersigned issued an Order to Show Cause why the Court should not deny Appellant’s motion to file an appeal. [Doc. 4.] Appellant never responded to the

Order to Show Cause. Indeed, Appellant informed the Bankruptcy Court that he was no longer pursuing this appeal. [See *In re Cilwa*, No. 7:16-cv-01301-TMC-JDA, Doc. 13-1 at 7 n.15.] Because Appellant failed to respond to the Order to Show Cause why the Court should not deny Appellant's motion to file an appeal and further indicated that he was no longer pursuing this appeal, the Court recommends that the motion for leave to appeal be DENIED.

IT IS SO RECOMMENDED.

s/Jacquelyn D. Austin
United States Magistrate Judge

November 21, 2016
Greenville, South Carolina